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**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trad mark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/764,734 01/17/01 JOHNSON

P J3509 (C)

000201  
UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER NJ 07020

HM22/0731

EXAMINER

REF ID: A

ART UNIT	PAPER NUMBER
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1616

DATE MAILED:

07/31/01

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trad marks**

<b>Office Action Summary</b>	Application No. <b>09/764,734</b>	Applicant(s) <b>Johnson et al</b>
	Examiner <b>Alton Pryor</b>	Art Unit <b>1616</b>
<b>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</b>		
<p><b>Period for Reply</b></p> <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>		
<p><b>Status</b></p> <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Jan 17, 2001</u></p> <p>2a) <input type="checkbox"/> This action is FINAL.      2b) <input checked="" type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>		
<p><b>Disposition of Claims</b></p> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-27</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>1-4 and 6-27</u> is/are rejected.</p> <p>7) <input checked="" type="checkbox"/> Claim(s) <u>5</u> is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>		
<p><b>Application Papers</b></p> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
<p><b>Priority under 35 U.S.C. § 119</b></p> <p>13) <input checked="" type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).</p> <p>a) <input checked="" type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Certified copies of the priority documents have been received.</li> <li>2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</li> <li>3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> </ol> <p>*See the attached detailed Office action for a list of the certified copies not received.</p> <p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p>		
<p><b>Attachment(s)</b></p> <p>15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____</p> <p>18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>20) <input type="checkbox"/> Other: _____</p>		

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***Claim Rejection under 35 U.S.C. 112, 2nd paragraph***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The term "characterized" in claims 1-27 is a relative term which renders the claim indefinite. The term "characterized" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejection under 35 U.S.C. 103(a)***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,6-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes et al (US 4,405,482; 9/20/83).

Hayes teaches a sanitizing formulation used in napkins comprising DTPA. The composition functions as an antimicrobial agent. See entire reference. Hayes does not teach the

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instant amounts/ratio of ingredients. However, one having ordinary skill in the art would have been motivated to determine the optimum amounts/ratios through routine experimentation. One would have been motivated to do this in order to develop the most effective composition.

*Claim Objection*

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach the composition comprising the compounds of this claim.

*Other Matters*

According to your application folder, there should be an IDS and references. However, the examiner is unable to locate the IDS and references. Please submit IDS along with references in response to this office action.

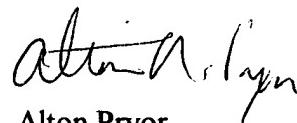
*Telephonic Inquiry*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for this Group is (703) 308-4556.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

  
Alton Pryor

Patent Examiner, AU 1616

7/29/01